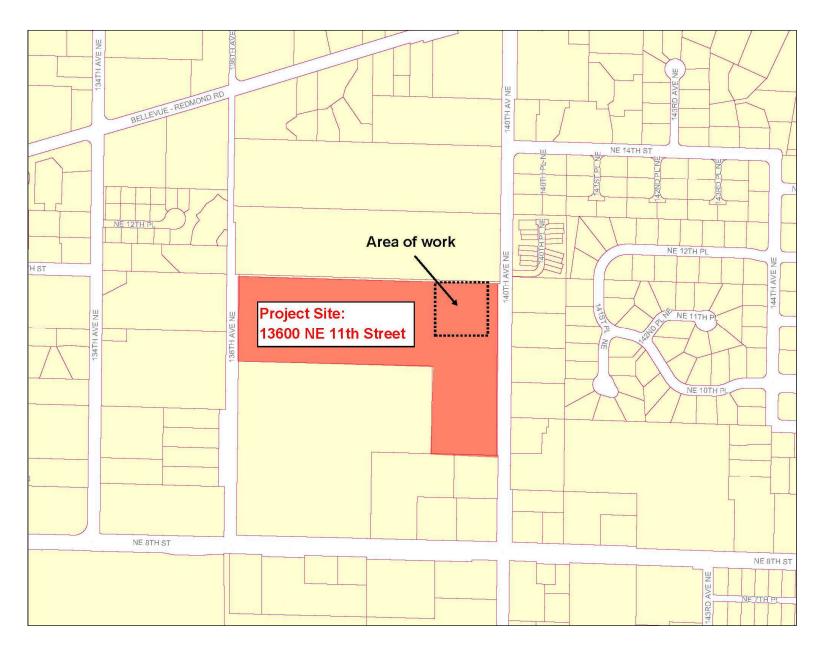


## **DETERMINATION OF NON-SIGNIFICANCE**

PROPONENT: Essex Property Trust				
LOCATION OF PROPOSAL: 13600 NE 11 <sup>th</sup> Street				
NAME & DESCRIPTION OF PROPOSAL: Woodland Commons Pond Maintenance				
Repair to a private stormwater pond to restore the outlet structure and sediment level of the facility to its original condition. This facility drains into stormwater conveyance systems that extend downstream and eventually reach Kelsey Creek. Following completion the pond perimeter will be restored with native planting.				
FILE NUMBER: 12-110520-LO				
The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.				
There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on				
This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on 1/6/20 \(\triangle \).				
This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5 p.m. on				
This DNS may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information indicating, or on, a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project): or if the DNS was procured by misrepresentation or lack of material disclosure.				
Environmental Coordinator  8/23/2012  Date				

OTHERS TO RECEIVE THIS DOCUMENT:
State Department of Fish and Wildlife
State Department of Ecology,
Army Corps of Engineers Attorney General Muckleshoot Indian Tribe

# Woodland Commons Pond Maintenance File Number: 12-117903-LO





## City of Bellevue Development Services Department Land Use Staff Report

**Proposal Name:** 

**Woodland Commons Pond Maintenance** 

**Proposal Address:** 

13600 NE 11th Street, Bldg. U

**Proposal Description:** 

Land Use review for repair to a private stormwater pond to restore the outlet structure and sediment level of the facility to its original condition. This facility drains into stormwater conveyance systems that extend downstream and eventually reach Kelsey Creek. Following completion the pond perimeter will be

restored with native planting.

File Number:

12-117903-LO

**Applicant:** 

Thomas Kachman, Essex Property Trust

**Decisions Included** 

Critical Areas Land Use Permit

(Process II. 20.30P)

Planner:

Reilly Pittman, Land Use Planner

State Environmental Policy Act

**Threshold Determination:** 

**Determination of Non-Significance** 

Carol V. Helland, Environmental Coordinator

**Development Services Department** 

**Director's Decision:** 

**Approval with Conditions** 

Michael A. Brennan, Director Development Services Department

**Application Date:** 

July 17, 2012

Notice of Application Date:

August 2, 2012 August 23, 2012

**Decision Publication Date:** 

Camtarahar 6 2012

**Project Appeal Deadline:** 

September 6, 2012

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Appeal of the Critical Areas Land Use Permit decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

## **CONTENTS**

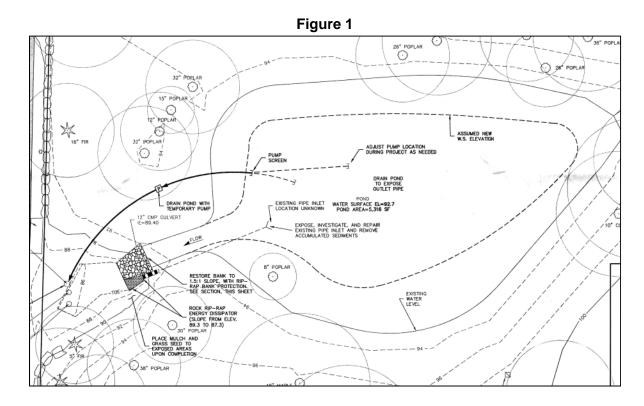
I.	Proposal Description	Pg 3
II.	Site Description, Zoning & Land Use Context	Pg 3-5
III.	Consistency with Land Use Code Requirements	Pg 6
IV.	Public Notice & Comment	Pg 7
V.	Summary of Technical Review	Pg 7
VI.	State Environmental Policy Act (SEPA)	Pg 7
VII.	Changes to Proposal Due to Staff Review	Pg 8
VIII.	Decision Criteria	Pg 8-9
IX.	Conclusion and Decision	Pg 9
X.	Conditions of Approval	Pg 10-12

## **Attachments**

- 1. Site Plan Enclosed
- Restoration, Maintenance, and Monitoring Plan Enclosed
   Project Narrative, SEPA Checklist, Forms, Application Materials In File

## I. Proposal Description

The applicant proposes to repair the drainage outlet of an existing stormwater pond that is flooding above its designed capacity. Overtime the outlet has plugged and the pond has flooded causing erosion of the outlet berm. The flooding has led to sediment accumulation at the pipe inlet that allows water to leave the pond. The pond will be drained as necessary to expose the outlet structure and the outlet and berm will be repaired which may require replacement of existing pipe. In addition to the berm construction the sediment collected at the pipe inlet will be removed to restore the pond level to the originally approved condition which will lower the pond approximately three feet in elevation. Following restoration of the pond 2,345 square feet of exposed banks will be planted with native vegetation. A Critical Area Land Use Permit is required to approve repair of private utility systems in critical areas. See Figure 1 below for a site plan.



## II. Site Description, Zoning, Land Use and Critical Areas

## A. Site Description

The pond is located within the Woodland Commons Apartments and is part of the drainage system for the site. The pond drains north via a privately maintained storm system under the parking lots and apartments of an adjacent complex to the north. The drainage system eventually connects to a tributary of Kelsey Creek to the northwest of the site. The tributary segment is found in the City Stream Inventory and is described as the following –

"Segment 76\_07\_1, which lacked fish, flows between apartment buildings. Local residents report the channel is very flashy. Thus, hydrological factors are possibly limiting fish use, since gravel substrate and small pools were observed. It is possible, but

unlikely, that fish might access the lower 120 feet of this segment (before reaching a steep culvert) during high flow events. Segment 76\_07\_21 possesses similar flashy streamflow conditions. No fish were observed within this segment nor is fish use possible due to a steep gradient barrier at the confluence with Kelsey Creek."

The site is on the west side of 140<sup>th</sup> Avenue NE and is multifamily zoned. The surrounding properties on the west side of 140<sup>th</sup> are also zoned multifamily and the properties east of 140<sup>th</sup> are zoned profession office. In general, the area is extensively developed. See figure 2 for existing site condition.

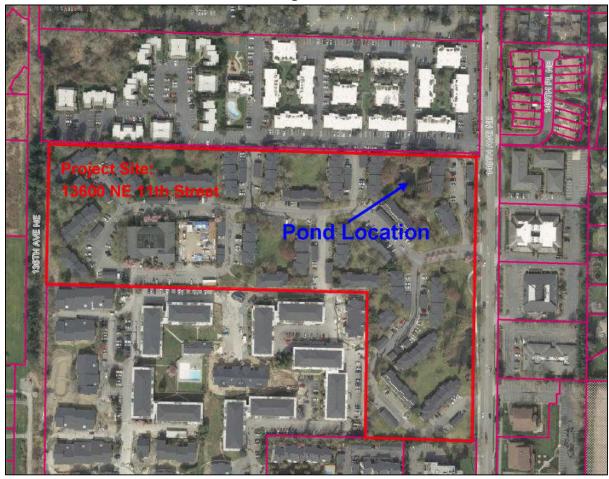


Figure 2

#### **B.** Zoning

The property is zoned R-30, multifamily residential.

#### C. Land Use Context

The property has a Comprehensive plan Land Use Designation of MF-H (Multi Family High Density).

## D. Critical Areas On-Site and Regulations

#### i. Streams and Riparian Areas

Most of the elements necessary for a healthy aquatic environment rely on processes sustained by dynamic interaction between the stream and the adjacent riparian area (Naiman et al., 1992). Riparian vegetation in floodplains and along stream banks provides a buffer to help mitigate the impacts of urbanization (Finkenbine et al., 2000 in Bolton and Shellberg, 2001). Riparian areas support healthy stream conditions.

Riparian vegetation, particularly forested riparian areas, affect water temperature by providing shade to reduce solar exposure and regulate high ambient air temperatures, slowing or preventing increases in water temperature (Brazier and Brown, 1973; Corbett and Lynch, 1985).

Upland and wetland riparian areas retain sediments, nutrients, pesticides, pathogens, and other pollutants that may be present in runoff, protecting water quality in streams (Ecology, 2001; City of Portland 2001). The roots of riparian plants also hold soil and prevent erosion and sedimentation that may affect spawning success or other behaviors, such as feeding.

Both upland and wetland riparian areas reduce the effects of flood flows. Riparian areas and wetlands reduce and desynchronize peak crests and flow rates of floods (Novitzki, 1979; Verry and Boelter, 1979 in Mitsch and Gosselink, 1993). Upland and wetland areas can infiltrate floodflows, which in turn, are released to the stream as baseflow

Stream riparian areas, or buffers, can be a significant factor in determining the quality of wildlife habitat. For example, buffers comprised of native vegetation with multi- canopy structure, snags, and down logs provide habitat for the greatest range of wildlife species (McMillan, 2000). Vegetated riparian areas also provide a source of large woody debris that helps create and maintain diverse in-stream habitat, as well as create woody debris jams that store sediments and moderate flood velocities.

Sparsely vegetated or vegetated buffers with non-native species may not perform the needed functions of stream buffers. In cases where the buffer is not well vegetated, it is necessary to either increase the buffer width or require that the standard buffer width be restored or revegetated (May 2003). Until the newly planted buffer is established the near term goals for buffer functions may not be attained.

Riparian areas often have shallow groundwater tables, as well as areas where groundwater and surface waters interact. Groundwater flows out of riparian wetlands, seeps, and springs to support stream baseflows. Surface water that flows into riparian areas during floods or as direct precipitation infiltrates into groundwater in riparian areas and is stored for later discharge to the stream (Ecology, 2001; City of Portland, 2001).

## III. Consistency with Land Use Code Requirements:

## A. Zoning District Dimensional Requirements:

The R-30 zoning requirements are not applicable to this project as no structures or impervious surfaces are proposed.

### B. Critical Areas Requirements LUC 20.25H:

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes performance standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback from a critical area or buffer. The project area will disturb a pond that eventually drains to a fish bearing stream and is subject to the requirements found in LUC 20.25H.080 below.

### i. Consistency With LUC 20.25H.080

Development on sites within a stream buffer shall incorporate the following performance standards in design of the development, as applicable:

- 1. Lights shall be directed away from the stream.
- 2. Activity that generates noise such as parking lots, generators, and residential uses, shall be located away from the stream, or any noise shall be minimized through use of design and insulation techniques.
- 3. Toxic runoff from new impervious area shall be routed away from the stream.
- 4. Treated water may be allowed to enter the stream critical area buffer.
- 5. The outer edge of the stream critical area buffer shall be planted with dense vegetation to limit pet or human use.
- 6. Use of pesticides, insecticides and fertilizers within 150 feet of the edge of the stream buffer shall be in accordance with the City of Bellevue's "Environmental Best Management Practices," now or as hereafter amended.

No runoff, treated water, or toxic chemicals will be created. Sediment removed from the pond will be disposed of off-site. The pond is surrounded by residential development which will continue after the project. No significant vegetation is being removed by the proposed maintenance. The perimeter of the pond will be planted with vegetation that will screen light and provide some minimal noise reduction. After reviewing the planting plan the plant density needs to be increased. The plans reference the City of Bellevue planting templates and the King County mitigation guidelines. However the proposed plans do not provide sufficient plants to achieve the density of the guidance documents. Based on the template guidance the planting area which is 2,345 square feet will require approximately 28 trees, 66 shrubs, and 520 ground covers. This planting density is required for the restoration area and the planting plan must be revised under the future clearing and grading permit to allow the work. Additional shrubs or trees can be provided in lieu of the ground covers. See Section X for related conditions of approval.

#### IV. Public Notice and Comment

Application Date: July 17, 2012
Public Notice (500 feet): August 2, 2012
Minimum Comment Period: August 16, 2011

The Notice of Application for this project was published the City of Bellevue weekly permit bulletin on August 2, 2012. It was mailed to property owners within 500 feet of the project site. No comments were received except from the Seattle Public Utilities which requested to review any plans if utility work was going to occur in 140<sup>th</sup> Avenue NE. No plans submitted show any work within 140<sup>th</sup> Avenue NE. If any work is proposed the plans will be made available to Seattle Public Utilities.

### V. Summary of Technical Reviews

#### A. Clearing and Grading

The Clearing and Grading Division of the Development Services Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff approved the application with conditions.

## VI. State Environmental Policy Act (SEPA)

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The Environmental Checklist submitted with the application adequately discloses expected environmental impacts associated with the project. The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

#### A. Earth, Air, and Water

No large-scale earthmoving activity is proposed. The submitted checklist estimates that the sediment around the pipe outlet to be about 4 cubic yards which will be removed from the pond. Removal of the sediment will restore the pond level to its originally designed level which is about 3 feet less than the current elevation.

#### **B. Plants and Animals**

No significant vegetation will be impacted by the proposed sediment removal and the exposed bank will be restored with native vegetation. Fish are not documented using the pond as they cannot move upstream of the tributary of Kelsey Creek which the pond is connected via a private storm system. **See Section X for related conditions of approval.** 

#### D. Noise

Construction noise is regulated by Chapter 9.18 BCC. <u>See Section X for a related</u> condition of approval.

## VII. Changes to Proposal Due to Staff Review

Staff required changes to the proposed planting in order to have sufficient plant density.

#### VIII. Decision Criteria

## A. 20.25H.255 Critical Areas Report – Decision Criteria – General

The Director may approve, or approve with modifications, the proposed modification where the applicant demonstrates:

 The modifications and performance standards included in the proposal lead to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code;

Restoring the pond to the approved function and level will reduce erosion of the outlet which adds sediment to Kelsey Creek. The planting proposed around the perimeter of the pond will provide screening and seclusion above that currently provided.

2. Adequate resources to ensure completion of any required mitigation and monitoring efforts;

The restoration planting proposed is required to be maintained and monitored for a period of 3 years. Performance sureties for installation and maintenance will be required. The submitted performance standards for the monitoring are sufficient. In addition the invasive plant coverage shall not exceed 10%. This standard shall be added to the planting plan submitted as part of the clearing and grading permit. Annual monitoring reports of the planting are required to be submitted that document the planting progress, maintenance activity, and includes photos. **See Conditions of Approval in Section X of this report.** 

 The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site;

The proposed project complies with the required performance standards in LUC 20.25H.080.

4. The resulting development is compatible with other uses and development in the same land use district.

The pond maintenance is allowed in this land use district.

#### B. 20.30P.140 Critical Area Land Use Permit Decision Criteria – Decision Criteria

The Director may approve, or approve with modifications an application for a Critical Area Land Use Permit if:

1. The proposal obtains all other permits required by the Land Use Code;

The applicant must obtain a clearing and grading permit and any other permits required. See Conditions of Approval in Section X of this report.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

The proposed maintenance will restore the pond to its originally approved condition and function. The work will occur in the dry season to minimize the amount of water in the pond. The pond will be pumped as is common practice to create a bypass around the work area. Temporary erosion and sediment controls will be required. The edge of the pond will be planted with dense buffer planting.

3. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

As discussed in Section III of this report, the applicable performance standards of LUC Section 20.25H are being met.

4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

The proposed activity is maintenance to a private storm system and will not impact public facilities.

5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

The mitigation planting is proposed to be consistent with the City's planting templates. The conditions of approval for planting in this staff report make the project consistent with LUC 20.25H.210.

6. The proposal complies with other applicable requirements of this code.

As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code.

### IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby approve with conditions the maintenance and repair to the stormwater pond at the Woodlands Commons. Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. A building permit, clear and grade permit, and/or utility permit is required and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.

**Note- Expiration of Approval:** In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a clearing and grading permit or other necessary development permits within one year of the effective date of the approval.

## X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Savina Uzunow, 425-452-7860
Land Use Code- BCC Title 20	Reilly Pittman, 425-452-4350
Noise Control- BCC 9.18	Reilly Pittman, 425-452-2973

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. Clearing and Grading Permit: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. Application for a clearing and grading permit or other required permits must be submitted and approved. Plans submitted as part of either permit application shall be consistent with the activity permitted under this approval.

Authority: Land Use Code 20.30P.140

Reviewer: Reilly Pittman, Development Services Department

**2. Restoration Planting:** As described in the staff report the density of the restoration planting shall be increased to include the amount of trees, shrubs, and groundcovers required by the planting templates referenced by the plans. A revised planting plan is required as part of the clearing and grading permit application.

Authority: Land Use Code 20.20.210

Reviewer: Reilly Pittman, Development Services Department

3. Monitoring Performance Standards: The maintenance and monitoring plan found on attachment 2 is required for the restoration planting associated with this approval. Monitoring is required for 3 years per the schedule specified. Annual monitoring reports should be mailed to:

Environmental Planning Manager Development Services Department City of Bellevue PO Box 90012 Bellevue, WA 98009-9012

#### Goal:

- Restore 2,345 square feet of native vegetation to the perimeter of the pond
- Monitor the restoration planting for 3 years and submit annual reports

#### **Performance Standards**

- Provide 80 percent survival of all plants for the life of the monitoring period
- At least 60% coverage of trees and shrubs by year 3

In addition to the above standards the monitoring shall also have the following standard:

Maintain 10 percent or less coverage by invasive plants in restored area for all years

The revised restoration planting plan submitted with the clearing and grading permit application shall include all of the performance standards and annual monitoring report submittal above as conditioned

Authority: Land Use Code 20.30P.140; 20.25H.220

Reviewer: Reilly Pittman, Development Services Department

**4. Planting Cost Estimate:** A cost estimate for the labor and materials to install the restoration planting and carry out 3 years of monitoring must be submitted prior to building permit issuance.

Authority: Land Use Code 20.30P.140

Reviewer: Reilly Pittman, Development Services Department

5. Performance Assurance Device: In order to ensure the restoration planting is installed, a performance assurance device in an amount equal to 100% of the cost of labor and materials for the installation shall be held until the restoration has been successfully installed and inspected by Land Use staff.

Authority: Land Use Code 20.25H.220

Reviewer: Reilly Pittman, Development Services Department

6. Maintenance Assurance Device: A maintenance assurance device in an amount equal to 100% of the cost of labor and materials for the maintenance and monitoring shall be held for a period of three years from installation. Release of this assurance device is contingent upon receipt of documentation reporting successful establishment in compliance with the performance standards stated in condition of approval #3 above. Land Use inspection of the planting after 3-years is required to release the surety.

Authority: Land Use Code 20.25H.220

Reviewer: Reilly Pittman, Development Services Department

7. Land Use Inspection: Following installation of planting the applicant shall contact Land Use staff to inspect the planting area and release the performance assurance device. At the end of 3 years inspection by Land Use staff is required to release the maintenance assurance device.

Authority: Land Use Code 20.30P.140

Reviewer: Reilly Pittman, Development Services Department

Woodland Commons Pond Maintenance 12-117903-LO Page 12 of 12

8. Noise Control: Noise related to construction is exempt from the provisions of BCC 9.18 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Noise emanating from construction is prohibited on Sundays or legal holidays unless expanded hours of operation are specifically authorized in advance. Requests for construction hour extension must be done in advance with submittal of a construction noise expanded exempt hours permit.

Authority: Bellevue City Code 9.18

Reviewer: Reilly Pittman, Development Services Department

